

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

IRA B. HARRIS,

Petitioner,

v.

CHUCK DWYER,

Respondent.

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No. 4:05-CV-1086-JCH

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ORDER AND MEMORANDUM

This matter is before the Court upon petitioner's motion to amend petition for writ of habeas corpus and motion for temporary restraining order and preliminary injunction [Doc. #6].

On July 15, 2005, the Court denied petitioner's application for a writ of habeas corpus, finding that petitioner has not exhausted available state remedies and that petitioner failed to allege that Defendant Dwyer was directly involved in or personally responsible for the alleged violations of petitioner's constitutional rights. The Court also denied petitioner's motion for temporary restraining order.

The Court has carefully reviewed petitioner's motion to amend and motion for temporary restraining order and preliminary injunction and finds nothing therein that would cause the Court to reverse its original findings. The bases for the Court's decision are unaffected, and the Court's decision is unchanged by petitioner's motion to amend.

Under Rule 15 of the Federal Rules of Civil Procedure, leave to amend should be granted freely "when justice so requires." FED.R.CIV.P. 15(a). However, futility constitutes a valid reason for denial of a motion to amend. *See Fuller v. Secretary of Defense*, 30 F.3d 86, 88 (8th Cir.1994). In the present case, petitioner's attempt to amend his complaint is futile because nothing

therein would cause the Court to reverse its decision denying the petition and the motion for temporary restraining order.

Accordingly,

IT IS HEREBY ORDERED that petitioner's motion to amend petition for writ of habeas corpus and motion for temporary restraining order and preliminary injunction [Doc. #6] be **DENIED**.

Dated this 1st day of August, 2005.

/s/ Jean C. Hamilton
UNITED STATES DISTRICT JUDGE